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Planning Commission
County of San Luis Obispo
San Luis Obispo, CA 93408

via email: John McKenzie, Senior Environmental Planner, Planning & Building Department,
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via fax: (805) 788-2413

Re: SCOPING COMMENTS REGARDING FIRST SOLAR AND SUNPOWER SOLAR
POWER PROJECTS

Dear Commissioners:

This office represents Michael Strobridge in the above-referenced matter. We write to express concern about several aspects of the proposed projects to build solar generating facilities at certain locations in the Carrizo Plains in eastern San Luis Obispo County. Since Michael Strobridge's farmland lies next to the proposed project areas, his interests stand to be severely impacted by these projects.

Due Process

At the outset, we are concerned with the process by which the Commission has conducted the scoping hearings thus far. One of the purposes of scoping hearings is for members of the public, as well as interested parties like Mr. Strobridge, to raise issues that should be addressed in any environmental analysis or Environmental Impact Report ("EIR") for a proposed project. In order to raise such issues, members of the public as well as interested parties who comment must have adequate information with which to identify issues that must be addressed. Without adequate information, members of the public who comment may be deprived of their rights of Due Process because issues not raised at the scoping stage might appear later, after such issues have been excluded from the process and from the analysis of impacts of the project. If and when that circumstance arises, the County will be forced either to amend and recirculate the EIR or, worse, to reach a legally deficient decision on an EIR whose scope of issues remains inadequate to provide the legally required analysis of the effects of the project. In this latter case, the County will have violated the Due Process rights of Mr. Strobridge and, indeed, of the public in general because individuals will not be able to deliver informed comment on, or raise timely objections to, projects that may harm their interests.

In light of the Due Process concerns inherent in projects of this type and magnitude, we urge the Commission to delay any further action on the projects and reschedule scoping hearings to occur only after the public has adequate information from both SunPower and First Solar to identify, and make informed comments on, the issues that should be raised in any required environmental analysis for these projects.

The availability and use of water is such a critical issue in this area that SunPower and First Solar must disclose information in significantly greater detail than they have thus far to enable members of the public and Mr. Strobridge to provide input on water issues that need to be evaluated, particularly in relation to the needs of wildlife species, rural landowners and agriculture, the damage anticipated to private and public lands from water runoff, and the effects on residential well users such as Mr. Strobridge.

We believe that to date, SunPower and First Solar have failed to disclose information the public needs to make informed scoping comments, including but not limited to the following: 1) the level of water consumption to be used in construction, 2) the level of water consumption to be used in the process of generating electricity, 3) the level of water consumption to be used in dust suppression, 4) the level of water consumption to be used in connection with surface mine construction and operation, and 5) the type of inverters to be used and any related noise contour sheets, together with the noise impacts of the inverters to be used.

Cumulative Impacts

Any environmental analysis conducted by the County for either (or both) of the projects must evaluate the impacts associated with the Carrizo Energy Solar Farm (also known as the “Ausra” project). The impacts of the SunPower and First Solar projects will act in conjunction with the impacts of the Ausra project, the three of which together will be cumulatively considerable. To be clear, the County’s environmental analysis concerning any one of these three projects must consider how all the impacts of that project will interact with all the impacts of either (and both) of the other projects to produce cumulative impacts, and then those cumulative impacts themselves must be analyzed and mitigated. These analyses must be performed prior to project approval in order for any one of the projects to comply with the law. In short, the cumulative impacts analysis of any one of these three projects must consider the impacts from all three projects together.

Water

In addition to the Due Process concerns raised above, the issue of water availability for these projects looms as quite substantial and possibly insurmountable. Already, the region is experiencing serious water deficiencies. The EIR must address this problem in a variety of ways, as follows and without limitation:

The analysis must realistically appraise the current and projected availability of water. The groundwater supply in California Valley is already in serious deficiency, and these projects will seriously impact that deficiency to the detriment of existing uses.

According to the San Luis Obispo County Master Water Plan Update for Planning Area #8, dated March 30, 2001, the existing supply of water is listed at 600 acre/feet per year, whereas the

projected demand is listed at 1,260 to 1,305 acre/feet per year. There is thus a deficiency of at least 660, and perhaps as much as 705, acre/feet per year.

Two salient points must be noted with regard to these numbers. First, this report was published in the year 2001 and was based, apparently, on an analysis conducted in 1995; now, in the year 2009, there is reason to conclude that the deficiency going forward, without the proposed projects, may be greater than that which appeared in the earlier analysis. We believe this to be the case for several reasons. First, as Commissioner Christie implied in her statement at the June 11 hearing, the water table in the area is currently in decline. Second, the earlier analysis was conducted prior to a significant and likely unanticipated growth in population in the California Valley area in a housing “boom.” The EIR must fully examine water availability, use, mitigation, and alternative sites that may be better suited for the locations of these projects given the lack of water.

Moreover, SunPower and First Solar have apparently both asserted that their plans rely on an average of ten inches of rain per year in the area. However, local residents report a significantly lesser rate of rainfall for the last three years. One individual testified at the June 11 hearing that there was only about 13 inches of rainfall in the area during the last three years altogether, averaging about 4.34 inches per year. The analysis should take into account this lesser amount of rain for the last three years and compute projected yearly average rainfall accordingly.

The analysis must realistically account for the amount of water expected to be used by these two projects without relying on representations from the project proponents alone. For example, without limitation, SunPower must reveal the amount of water it will use relating to its planned concrete batch plant and how much water it will use to wash their panels of such materials as dust, insects and birds and their droppings.

The analysis must evaluate the current water availability for existing wells on properties throughout the area, particularly the wells near or bordering First Solar’s and SunPower’s proposed facilities. We have reason to believe that some wells on properties abutting the proposed SunPower facility are already going dry.

The analysis must consider the cumulative impacts of the realistic projected water use from these two projects combined with the projected water use of the Ausra project.

Noise

As mentioned above, we are concerned about the anticipated noise from these two projects. In particular, without limitation, we are concerned with the noise from the proposed inverters on the two projects. The type and number of inverters for the projects must be identified and the noise therefrom adequately mitigated. For example, the analysis must describe how the noise from some 1,200 inverters in use simultaneously can be adequately mitigated or mitigated at all. The analysis must show how the cumulative impacts from all the noise from the inverters on these two projects combined with the noise from the Ausra project will be mitigated. This analysis must include a demonstration of what the decibel level will be on neighboring homes from the cumulative effect of the noise from all three projects, as well as how the noise levels from these two projects will impact the Ausra project given the relevant California Energy Commission (CEC) requirements for decibel levels and the CEC’s commitments to local landowners in this regard.

Traffic

A full evaluation is needed of the impacts additional traffic will bring to the area's roads and to the lives of local residents. Specifically, without limitation, the analysis must describe the impacts and mitigation on Bitterwater Road, given the instability of that road. The sources of that instability must be identified. The amount of additional traffic to be generated from the two projects (as well as from all three projects) must be reliably estimated so as to evaluate the impacts therefrom and identify the mitigation required.

Additionally, the effects of the additional traffic must be squared with the level of public and fire safety resources the County will have to provide in response. Residents of this remote rural area have a keen interest in maintenance of public and fire safety given the increased amount of traffic on the roads. The analysis of traffic impacts should include impacts to local users of roads, together with mitigation of those impacts. These considerations of public safety and impacts to local users are especially important considering the proximity of these projects to a school. The analysis should include an evaluation of impacts from traffic, noise, and any other factors such as visual glare and air pollution on the school's students, teachers, employees and operations.

The impacts of the surface mine must be analyzed and mitigated, including but not limited to the use of water by the mine in its construction and operations. Furthermore, the entire scope and extent of the mine's planned operations must be disclosed.

Wildlife

These projects will cause severe impacts to the region's resource base, and the California Department of Fish and Game and the US Fish and Wildlife Service will have steep responsibilities as responsible agencies on these projects. We agree with other scoping comments as to the need to evaluate all impacts to wildlife from these projects and would like to highlight a few concerns.

The proposed First Solar site is situated squarely in the wildlife corridor for the Kit Fox, a species which is federally listed as Endangered and state listed as Threatened. At a minimum, First Solar will be required to obtain incidental take authorization for such a damaging encroachment on the habitat of a listed species. The other project proponents must similarly account for their impacts to listed species. Any alleged benefits to the Kit Fox must be balanced against the harm from the projects so that the harms to the Kit Fox are "fully mitigated" under California law. Additionally, while there has been considerable discussion of the Kit Fox and a few other species, a full evaluation is needed of the impacts of the projects to ALL listed species in the area. If needed, additional surveys should be conducted to determine the presence of any listed species that could be impacted by these projects. The analysis must also include measures that will prevent any "take" of birds protected under California Fish and Game Code Sections 3503, 3503.5, and 3513, as well as birds of special status and of "fully protected" status under California law.

Additional Wildlife concerns to be addressed:

Fencing. The proposed plan for perimeter fencing of the projects must be analyzed in terms of its impacts to listed species given the projects' locations within wildlife corridors and habitat. The impacts in this regard of using any type of fence must be evaluated as to not only the Kit Fox but

also the tule elk and pronghorn.

Federal laws and regulations concerning what type of fencing is permissible on power generating facilities given the threat of terrorist attacks could affect the ability of the project proponents to build any number of different types of fencing. Any such relevant laws and regulations must be evaluated and included in the analysis, especially to see whether such requirements will render Kit Fox or other types of required mitigation impossible.

Night lighting. The projects must be evaluated as to what impacts the planned construction or operation at night will have on wildlife populations in the area. The area is ordinarily very dark at night compared with urban areas, and this darkness provides important benefits to species. The analysis must therefore include the extent of night lighting that will be used for the projects and the resulting impacts on species, together with mitigation measures to address these impacts.

National Monument. The projects lie in close proximity to the Carrizo Plains National Monument (Monument). The EIR must contain an analysis of the impacts of the projects on the Monument, including without limitation the impacts on the wildlife species that occur in the Monument. If a listed species that occurs in the Monument is affected in the project area, then the Monument is also impacted and those impacts must be adequately mitigated. The EIR should provide an analysis of how mitigation to impacts on the Monument will be accomplished.

Visual / Glare

The analysis must consider the effects of bright-light glare from the materials to be situated onsite and impacts on the visual and aesthetic condition of the lands. This would include any glare from panels, mirrors, or other such materials. The analysis will have to show how these impacts will be mitigated. The analysis will also have to show how the visual impacts from the construction of tall industrial buildings in a flat plain can be mitigated at all.

Heat

The EIR must disclose to what extent the operations of these projects will result in an increase over the normal temperature of the area, the resulting impacts on local residents and wildlife, and what mitigation measures will be needed as a result. The area already experiences extreme heat during the summer months. Additionally, the EIR should consider what impact increased temperatures from the projects will have on climate change.

Alternative Sites

The EIR must, in its discussion of Alternatives, analyze whether alternative sites are available for these projects altogether. If there are alternative sites that could be utilized for these projects and which would result in fewer impacts, those sites should be chosen over the proposed sites. PG&E need not obtain energy for its renewable portfolio requirements from San Luis Obispo County. PG&E has available to it lands reaching across a broad swath of the western United States. PG&E's own representative reported to the County that it can utilize lands from British Columbia to Texas. The alternatives analysis in the EIR must describe alternative sites, and their relative merit, within this broad area.

Loss of Agricultural Land in SLO County

The EIR must describe the extent to which the projects will result in the loss of agricultural land in San Luis Obispo County, together with mitigation for that loss.

Hazardous Materials

To the extent either of the projects propose the use of cadmium telluride or similarly hazardous materials, the EIR will obviously have to analyze how this material will be used safely. Further, the EIR must demonstrate how the use of this cancer-causing material, or of any other hazardous material, over both the short and long term, will not pose a risk of contamination into land, air or water, or in ways that could impact human health. If the use of such material could result in human exposure, there will have to be adequate warnings posted pursuant to state and federal laws. The EIR must be clear on precisely what materials will be used and whether hazardous materials will or might be used.

Socioeconomic Considerations

The EIR must analyze whether the disruption by the projects of the naturally dark night sky would disturb existing religious practices in the area so as to produce a significant effect (see CEQA Guideline 15131(b)). In this regard, Native American communities could be impacted by the projects. The EIR must identify any such impacts and how they will be mitigated.

Please provide this office with copies of all materials, notices, and any and all information issued to the public about these matters so that Mr. Strobridge can make informed comment thereon.

Thank you for your consideration of these comments.

Very Truly Yours,

/s/

Samuel B. Johnston